

To,

Executive Director
Udyuog Bandhu,
12-C, Mall Avenue,
Lucknow

Sub: Set off/rebate in entry tax on paper

Sir,

Please refer to the minutes of Tripartite Meeting on Tax & Registration sent to IIA vide letter no.783/248/2010-11 dt. 28th July 2010. S no. 11 of the aforesaid letter peratins to entry tax on “paper” and refund/rebate thereon.In the above context IIA wants to bring to your kind notice the anomalies in the matter as under:-

The original section 6 of Entry Tax Act contained the provision of Refund of Entry Tax from VAT for Manufacturers only.On representation of discrimination it was amended by deleting the words and portion “and liability for payment of tax has accrued before Entry ofsuch goods into local area” which after amendment entitled the importers of such goods to get refund as well. Notification on refund (No. 766 dt.04.03.08) did also contain the same words and portion as have deleted from section 6 of Entry Tax Act.It was inadvertently left unattended with the intention that amended provisions of section 6 will be adequate for entitlement.

Later on circular no.091006 dt.17.04.09 explaining the provisions of such amendments clearly classified that refund in both conditions of Import &Manufacture will be available.Certain officers allowed refunds others did not.The circular is reproduced as under “

The circular reads “ धारा 6 में वर्तमान में जो प्राविधान है उसके अनुसार किसी स्थानीय क्षेत्र में माल के प्रवेश करने से पूर्व यदि उत्तर प्रदेश मूल्य संवर्धित कर अधिनियम 2008 के अंतर्गत उस माल पर कर भुगतान का दायित्व हो राज्य सरकार अधिसूचना द्वारा इस अधिनियम के अंतर्गत उद्गृहणीय कर की संपूर्ण धनराशि की सीमा तक रिबेट अनुमन्य कर सकती है। संशोधन में “ किसी स्थानीय क्षेत्र में माल के प्रवेश करने से पूर्व कर भुगतान का दायित्व हो” हटा दिया गया है। अब दोनों परिस्थितियों में प्रवेश कर में रिबेट अनुमन्य हो सकेगा चाहे मूल्य संवर्धित कर अधिनियम 2008 के अंतर्गत दायित्व स्थानीय क्षेत्र में प्रवेश से पूर्व हो अथवा बाद में”।

Meanwhile the Principal Secretary, Tax & Registration re-iterated in the Meeting of Vyapar Nidhi Prabandhan Samiti that Entry Tax Refunds are available for both “Importers” and “Manufacturers”.
(copy of minutes of meeting annexed at annexure 1)

Again confirming the same intention and provision in entry tax, Commercial Tax Deptt. Filed a counter affadivit before Hon’ble High Court.In averment it was declared (Gulab Chandra Vishwanath & Co. v/s

Govt.of U.P.),w.p.no.20190 of 2008 dt.17.01.09 “ that the impugned Act facially and patently indicates that benefits which are quantifiable and measurable, is given to payers of Entry Tax as a class.”

Thus from the above it is clear that the Deptt. Is committed to refund the entry tax paid.Therefore an amendment may accordingly be made in Notification no.766/04.03.08 whereas same amendment required for diesel and crude oil in Notification no.765 has already been made.

Thanking you,

Yours faithfully,

D.S. Verma
Executive Director